

RALPH BALLMAN

Appellant

vs.

**DEPARTMENT OF PLANNING
AND ZONING, HOWARD
COUNTY, MARYLAND**

Appellee

BEFORE THE

HOWARD COUNTY

BOARD OF APPEALS

HEARING EXAMINER

BA Case No. 658-D

DECISION AND ORDER

On April 22, 2009, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, conducted a hearing on the administrative appeal of Ralph Ballman (the "Appellant"). The Appellant is appealing from a Department of Planning and Zoning ("DPZ") letter of decision dated January 13, 2009 informing him of the Division of Public Service and Zoning Administration ("PSZA") decision to close its investigation of his zoning violation complaint. The petition alleges DPZ failed to investigate all the issues and evidence presented in the complaint, to properly interpret and apply the Zoning Regulations, and to respond in a timely matter to inquiries about the status of the complaint. He charges DPZ's decision aggrieves him because the illegal use of the subject property to facilitate the operation of a construction company has a detrimental impact on the quality of life and property values for neighboring properties and that the R-20 Zoning District was never intended to permit such business operations. The petition also asks the Hearing Authority to consider the fact that the Martin's Gate covenants do not allow paving of green

space, dumping, or the storage of vehicles or equipment on any lot in the community, including the Open Space Lot.

I viewed the subject property as required by the Hearing Examiner Rules of Procedure.

The Appellant was not represented by counsel. Ralph Ballman testified on his own behalf. Camela Sandmann, Assistant County Solicitor, represented DPZ. Curtis Braithwaite and Anthony LaRose testified on behalf of DPZ.

FINDINGS OF FACT

1. On September 12, 2008, Ralph Ballman filed a zoning violation complaint with DPZ, which received the complaint on September 18, 2009. According to the Appellant, the complaint alleged the owner of 10009 Old Frederick Road (the "Property") is using the Property as a commercial building and home improvement business in violation of the Howard County Zoning Regulations.

2. At the hearing on April 22, 2009, the Appellant introduced into evidence the following.

➤ Exhibit 1¹

Page 1. A copy of the January 13, 2009, letter from Anthony LaRose, PSZA Zoning Supervisor, informing the Appellant that DPZ closed its investigation of his zoning complaint. The letter states DPZ's numerous inspections failed to verify the operation of a contractor's business and police records indicated that all vehicles cited in his complaint, as well as those DPZ observed on the property are registered as private

¹ For the reader's convenience, I assigned page numbers to Exhibit 1 during the proceeding.

vehicles to the owner of the property, and as such are permitted.

Pages 2-9. Copies of police records compiled on December 4, 2009 for vehicles owned by Shik Young Chong.

<u>Owner</u>	<u>Owner Address</u>	<u>Make</u>	<u>Style</u>	<u>Lic. No.</u>
Co-Owner - Shik Young Chong	10009 Old Frederick Rd.	06 Chevy	Tk (pick up truck)	03S043
Shik Young Chong	10009 Old Frederick Rd.	02 Honda	Van	M924900
Shik Young Chong	10009 Old Frederick Rd.	00 Ford	DS	73H728
Co-owner - Shik Young Chong	10009 Old Frederick Rd.	85 Toyt	4S trailer	TRF887
Co-owner - Shik Young Chong	10009 Old Frederick Rd	94 Chevy	Tk	No tag number, 59B364 previous license
Shik Young Chong	10009 Old Frederick Rd.	00 Road	TL trailer	619311G

Page 10. Request from George Beisser, PSZA Chief, to Lt. Case (Howard County Police) requesting registration and number of vehicles owned for Chong Shik Young, 10009 Old Frederick Road, and tag numbers 64T948, 59B364, 980947G, 388758G, 698596D, and 32J748.

Pages 11-16. Police records compiled on December 11, 2009 by vehicle license number.

<u>Lic. No.</u>	<u>Owner</u>	<u>Owner Address</u>	<u>Make</u>	<u>Style</u>
64T948 Sticker Expired			06 Ford	Tk
59B364 no record				
980947G	A Plus Building Construction 10009 Old Frederick Road	10009 Old Frederick Rd.	08 IMP	TL Trailer
388758G	Michael Joseph Clancey	9999 Old Frederick Road	94 Bull	LA
698596D no record				
32J748 Title transferred, tags received				

Page 17. Copy of October 29, 2008 letter from Ralph Ballman to George Beisser, requesting information on the status of the zoning violation complaint filed on September 12, 2008 and marked as received November 5, 2008.

Page 18. Copy of September 22, 2008 Memo for the Record from C. Braithwaite, RE: CE-08-153, explaining that he inspected the property on September 24 and October 28, 2008 and observed no evidence of a zoning violation or of a home improvement business being operated from the residence. The memo states "[s]ince a zoning violation doesn't exist I am going to close this zoning case out."

Page 19. Copy of CE 08-153 Complaint/Investigation Report by Inspector C. Braithwaite describing complaint as "using residence as a commercial building and home improvement business."

Page 20. Copy of Maryland Department of Assessments and Taxation Real Property Data search dated 9/22/08 for 10009 Old Frederick Road.

Page 21. Copy of 2006 Aerial Photograph of 10009 Old Frederick Road.

Page 22-23. Copy of CE08-153 Case Field Report noting alleged use of R-20 residence as a commercial building and home improvement business and illegal business.

Page 24. Copy of Vehicle Registrations Memo to Lt. Case from George Beisser dated December 4, 2008 requesting registration information and number of vehicles owned by Chong Shik Young and tag number M924900.

➤ Exhibit 2

Copy of Maryland Department of Assessments and Taxation Business Entity Information for A Plus Building Construction Inc., with principal office address given as 10009 Old Frederick Road, and listing principal agent as Shik Young Chong, same address. The Articles of Incorporation states the incorporation is formed for the purpose of construction.

➤ Exhibit 3

Nine photographs depicting multiple vehicles, a closed trailer, an open trailer, a large accessory building, and materials, ladders, and other items stored on the ground behind and under the accessory building.

3. The Appellant alleged the evidence provided in the complaint clearly demonstrates

the existence of an unlawful commercial or home-based contractor operation at the Property in violation of Section 128.C.2.²

² Section 128.2 of the Zoning Regulations, which permits a home-based contractor as a permitted accessory use, provided that:

- a. The site shall have at least 60 feet of frontage on a public road.
- b. In addition to the commercial or unregistered vehicles which may be parked on the lot according to the accessory use requirements of the applicable zoning district, the following is allowed:
 - (1) In the RC and RR Districts, one additional commercial vehicle may be parked on lots larger than two acres.
 - (2) In the R-ED, R-20, and R-12 Districts, one additional commercial vehicle may be parked on lots larger than three acres.
- c. Employees who do not live on the lot may visit the lot for the sole purpose of picking up or returning vehicles or equipment. Such trips shall be limited to:
 - (1) In the RC and RR Districts, no more than four trips per day for lots two acres or less, eight trips for lots larger than two and less than three acres, and twelve trips for lots of three or more acres.
 - (2) In the R-ED, R-20, and R-12 Districts, no more than eight trips per day for lots larger than one acre.
- d. In addition to the employee visits allowed by Paragraph 2.c, one non-resident, full-time equivalent office employee, not to exceed two individuals, may work on site. Nonresident employees are not permitted to perform non-office functions (e.g. equipment repair, loading, etc.).
- e. No nonresident employees shall be on the lot and no commercial vehicles or equipment shall be taken from or returned to the lot between 7:00 p.m. and 6:30 a.m.
- f. The total area used for parking and storage of commercial vehicles, equipment and supplies, whether outdoors or indoors, shall be limited to the following:
 - (1) In the RC and RR Districts, no more than two percent of the gross lot area or 5,000 square feet, whichever is less.
 - (2) In the R-ED, R-20, R-12 and R-SC Districts, no more than two percent of the gross lot area or 1,000 square feet, whichever is less.
- g. Parking and storage areas shall be restricted as follows:
 - (1) In the RC and RR Districts, supplies shall be stored within a building, except that mulch, compost, soil, sand, stone and other natural materials may be stored outdoors. Supplies stored outdoors must be screened from surrounding properties and roads by vegetation, fencing or other appropriate means. Equipment shall be either stored within a building or screened from surrounding properties and roads by vegetation, fencing or other appropriate means.
 - (2) In the R-ED, R-20, AND R-12 Districts, vehicles, supplies and equipment shall be parked or stored within a building, except that one commercial vehicle may be parked outdoors on lots of less than three acres, and two commercial vehicles may be parked outdoors on lots of three or more acres. Equipment and supplies may be stored on the commercial vehicles.
- h. All storage areas shall meet the accessory structure setback requirements, except that structures used for parking, storage or loading of commercial vehicles larger than 5.0 tons gross vehicle weight, or excavating, paving or similar construction equipment shall be at least 50 feet from all property lines and outdoor parking or storage areas for these items shall be at least 100 feet from property lines.
- i. No major repairs of vehicles or equipment shall be permitted on the lot. Major repairs include body work, engine rebuilding, painting, and similar activities.
- j. Where two or more adjacent lots are under common ownership and used as a single homesite, home-based contracting uses may be located on a different lot than the principal dwelling, if the Director of Planning and Zoning determines that this will allow more effective screening to be provided by using existing features of the site, or will result in decreased impacts on neighboring lots due to noise, dust or fumes. Parking surfaces, fencing and

4. At the hearing, the Appellant presented photographic evidence to further support his complaint (Appellant's Exhibit 3). These photographs show multiple vehicles, a closed trailer, an open trailer, and materials, ladders, and other items stored on the ground behind or under the accessory building or beyond a stone edger. He testified to have taken the photographs in late February or early March, when the area was hit by a late snowstorm. He also stated that A Plus Construction was primarily a siding company.

5. He also alleged the accessory building on the Property violated the 15-foot maximum height limitation, in part because it was built on or over a deck, and that the Property owner was illegally using the Open Space Lot behind the Property to store construction materials and yard waste. The Appellant also alleged the Property had been extensively graded and developed without a grading permit. He further argued the Inspector acted improperly by prematurely closing the file or by not formally re-opening the case when the inspector later ran the license plates noted in the complaint and by failing to provide him with timely notification of its decision.

6. Mr. Braithwaite, the zoning inspector, testified to first visiting the Property on September 24, 2008, leaving his business card, and seeing no evidence of any vehicles or trailers on the Property. On a second visit on October 28, 2008, he saw a green truck (apparently a Ford)

landscaping may be installed; however, no new accessory building shall be constructed and no existing accessory building shall be enlarged unless located on the same lot as the principal dwelling.

k. A home-based contractor shall operate only upon approval of a permit by the Department of Planning and Zoning, based upon compliance with the requirements listed above. The permit application shall include a plot plan showing the location and dimensions of structures, parking and storage areas, screening, and driveways, and a description of the proposed use.

with what appeared to be commercial signage ("A Plus Building") and license number 32J748.³ He did not measure the accessory building to determine its height, nor did he inspect the area behind the building, because he did not feel they were zoning issues, and he did not see any equipment being stored on the Property. On recall, he stated that at no time did he see evidence of a business operating on the Property, nor did he ever see more than one vehicle used for a commercial purpose parked on the Property.

7. Although Mr. Braithwaite decided to close the investigation in late October, his inspector, Tony LaRose, instructed him to keep the investigation open. Mr. Braithwaite apparently visited the Property a third time in December 2008 or January 2009, and he ran the license plate numbers included in the complaint and Appellant's Exhibit A.

8. During cross-examination from the Appellant about how he handles non-zoning matters raised in a complaint, Mr. Braithwaite stated he generally refers them to other departments, but did not do so in this case because he observed no violations of any kind on the Property.

9. Tony LaRose, Zoning Enforcement Inspection Supervisor, testified that Zoning Regulations Section 108.C.7.a permits one commercial vehicle to be parked off-street on R-20 zoned property that is less than three acres in size. The number of private vehicles a property owner can park on a driveway or lot if the vehicles are accessory to the residential use of the property is unlimited. In his view, only the "A Plus" vehicle could be considered a commercial vehicle because the inspector found no clear evidence of other vehicles used as part of a

³ On cross-examination, the Appellant stated that the real tag number was 73H728. However, according to the police records in Appellant's Exhibit 1, the tag number for the A Plus commercial vehicle is 980947G. The tag number does not bear on this Decision and Order.

commercial operation:

10. He also stated Section 128.C.1.i(8) permits owners of residentially zoned property to maintain a home business or professional office. In his view, this section permitted the Property owner to maintain the principal office for the A Plus Construction Company within the dwelling, subject to certain size limitations.⁴ DPZ also provides property owners who desire to maintain a

⁴ Section 128.C. 1. provides for Home Occupations as follows.

Home occupations which meet the following requirements are permitted accessory uses in all residential zoning districts and in residential land use areas of the NT, PGCC and MXD Districts. If more than one home occupation is located within a residence or on a residential lot, the requirements given below apply to the cumulative total of all home occupations on the site.

a. The total area devoted to home occupations shall not exceed 33% of the gross floor area of the dwelling or 800 square feet, whichever is less.

b. A home occupation shall be located entirely within a dwelling, an accessory building, or both, except that a home office which may be visited by clients shall be located within a dwelling. An office visited by clients may not be separated from the remainder of the structure by an attached garage or an open or enclosed breezeway.

c. A home occupation shall not alter the residential appearance and character of the dwelling, accessory building or lot.

d. There shall be no exterior evidence, other than a permitted sign, to indicate that the lot is being used for any purpose other than that of a dwelling. Exterior evidence shall include

e. outdoor display or storage, noise, dust, vibration, glare, fumes, odors or extensive parking area.

f. No sale or rental of commodities shall take place on the lot.

g. A home occupation shall be conducted by persons residing in the dwelling. In addition, the following number of nonresident employees may work on the lot in connection with the home occupation:

(1) On a lot 40,000 square feet or larger, no more than two full-time equivalent employees not residing in the dwelling, not to exceed four individuals, shall be permitted.

(2) On a lot smaller than 40,000 square feet which is improved by a single-family detached dwelling, no more than one full-time equivalent employee not residing in the dwelling, not to exceed two individuals, shall be permitted.

(3) Within a single-family attached or apartment dwelling, no more than one fulltime equivalent employee not residing in the dwelling, not to exceed one individual, shall be permitted provided that the nonresident employee shall work only between 9:00 a.m. and 5:00 p.m. Monday through Friday.

h. No business-related deliveries by trucks with more than two axes shall be permitted. Parcel post and other similar delivery trucks are permitted.

i. Home occupations may include the uses listed below, as well as other uses which comply with all requirements of this section.

(1) Art or hand craft studios.

(2) Direct sale product distribution (e.g., Amway, Avon, Tupperware, etc.).

(3) Mail-order or telephone sales.

(4) Dressmaker, seamstress, tailor, and similar uses.

(5) Typing and computer services.

(6) Repair services for computer hardware, clocks, jewelry, cameras, guns, and similar uses.

(7) Tutoring.

(8) Business or professional offices which have no more than two vehicles visiting the home occupation at any one time.

home occupation in their resident a Home Occupation Information Form to complete.

11. Concerning the Appellant's allegation that the Property owner had not received a permit to grade the Property, Mr. LaRöse testified to being familiar with the Property and aware of the driveway's existence for at least three years prior to the current complaint.

CONCLUSIONS OF LAW

I. Standard of Review

Section 130.3 of the Zoning Regulations authorizes appeals of DPZ decisions, including the decision to close a zoning complaint.

Appeals to the Hearing Authority may be taken by any person aggrieved, or by any officer, department, Board or bureau of the County affected by any decisions of the Department of Planning and Zoning. Such appeal shall be filed not later than 30 days from the date of the action of the Department of Planning and Zoning and shall state the reasons for the appeal

Because DPZ's letter informed the Appellant of its decision to close its investigation of Zoning Complaint CE-08-153, he is an aggrieved person who timely filed this appeal.

Rule 10.2(c) of the Hearing Examiner Rules of Procedure sets out the burden and standard of proof in such appeals.

(9) Catering, subject to Health Department approval.

(10) In the RC and RR Districts only, lawn mower and small engine repair on lots of three acres or larger.

j. The following uses are not permitted as home occupations:

(1) Vehicle repair, sales or rental.

(2) Restaurants.

(3) Manufacturing and processing operations, other than production of handcrafts and similar activities.

(4) Furniture refinishing.

(5) Uses which require a conditional use in any residential zoning district.

k. Certain home occupations which do not comply with the requirements of this section may be permitted as conditional use, subject to the provisions of Section 131.N.28 and other applicable regulations.

In any other appeal of an administrative agency decision, the petitioner must show by substantial evidence that the action taken by the administrative agency was clearly erroneous, arbitrary and capricious, or contrary to law.

Before considering the Appellant's evidence, a brief discussion of the zoning violation complaint process is warranted given the nature of this appeal. In Howard County, as in most jurisdictions, the enforcement of alleged violations of the Zoning Regulations operates for the most part through the citizen zoning inspection request process, pursuant to Zoning Regulations Section 102.B.

Any person who is aggrieved by an alleged violation of these regulations may request in writing that the Department of Planning and Zoning issue a Zoning Violation Notice. If the Department does not issue such a notice within 60 days of receiving the written request, such failure shall be considered to be a final decision of the Department that the alleged violation does not exist, and the complaining person shall have a right to appeal such decision to the Board of Appeals, provided that such petition of appeal is filed with the Clerk of the Board of Appeals within 30 days after such failure to issue such Zoning Violation Notice. If such an appeal is taken, the Department of Planning and Zoning shall send a copy of the petition to the owner and occupant of the premises. The remedies provided for herein are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

The "request in writing" is the DPZ "Request to Conduct or Withdraw Zoning Inspection" standard form (the "zoning violation complaint."). For a request to inspect a property for compliance with the Zoning Regulations, the requester must provide the inspection address, describe the nature of the complaint, and note whether they wish to remain anonymous.

As Mr. LaRose explained, when DPZ receives a zoning violation complaint, it is directed to the administrative support staff person charged with managing the intake of petition applications for PSZA, including zoning violation complaints. This staff person assigns the complaint a case number and directs the case to the appropriate inspector. Each investigation is

tracked via through a computer-based Code Enforcement Complaint Form, or Case Field Report (Appellant's Exhibit 1), which includes inspector notes and activities related to the case. In addition, the inspector may also create a paper complaint or investigation report and periodically prepare a memo for the record.

The duty of the zoning inspector is to confirm the alleged violation through evidence ion that will support a formal notice of violation pursuant to Section 102.⁵ The primary means for obtaining such evidence is the site visit. If the inspector observes or confirms an apparent violation during one or more visits to at the site, DPZ may issue a Zoning Violation Formal Notice. If the inspector is unable to confirm a violation, the investigation is closed and the complainant is notified that DPZ is closing the investigation.

⁵ Section 102 further provides as follows

A. Violations

Any structure erected, constructed, altered, enlarged, converted, moved or used contrary to any of the provisions of these regulations by any person taking such action, or permitting such action, and any use of any land or any structure which is conducted, operated or maintained by any person using, or permitting the use thereof, contrary to any of the provisions of these regulations, shall be, and the same is hereby declared to be unlawful.

B. Enforcement

Upon becoming aware of any violation of these regulations, the Department of Planning and Zoning may institute an injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove such erection, construction, alteration, enlargement, conversion or use in violation of any of the provisions of these regulations. The Department of Planning and Zoning may give notice that activities on the premises are in violation of the Zoning Regulations and may order an end to these activities within 10 days, or a reasonable specified time. The Department of Planning and Zoning shall serve the notice personally, or by Registered Mail addressed to the premises of the violation, or to the person or corporation committing or permitting the violations, or by posting the premises. If the violation does not cease within the time specified by the Department of Planning and Zoning, the Department of Planning and Zoning shall take whatever action necessary to end the violation. A notice of violation issued under this section is not appealable pursuant to Section 130.A.3 of these regulations.

[Council Bill 4-2008 (ZRA-93) Effective 4/9/08]

The Department of Planning and Zoning may enforce the zoning regulations by issuing citations to alleged violators to be heard in Court or in Administrative Proceedings as provided by Law.

[Council Bill 4-2008 (ZRA-93) Effective 4/9/08]

C. Penalties

Failure to comply with the Zoning Regulations shall be a misdemeanor punishable by a fine not to exceed 100 dollars. Every day that such violation continues shall be a separate offense.

Alternatively or in addition to and concurrent with all other remedies, the Department of Planning and Zoning may enforce the provisions of the Zoning Regulations with civil penalties pursuant to the provisions of Title 24 "Civil Penalties" of the Howard County Code. A violation shall be a Class B offense.

In this case, the zoning inspector physically inspected the site on at least two occasions. On the first site visit, he found no sign of the alleged zoning violations. On the second visit, he observed what he concluded was a commercial vehicle, the green truck with the "A Plus" signage. At some juncture, he ran the vehicle license numbers provided in the complaint and for all vehicles owned by Shik Young Chong, the property owner and resident agent for A Plus Building Construction, Inc., which apparently maintains an office at 10009 Old Frederick Road.

The zoning inspector concluded there was insufficient evidence to warrant or support the issuance of a formal Zoning Violation Notice. The commercial vehicle he observed on the property during his investigation is permitted under Section 108.C.7, which allows the owner of R-20 zoned property less than three acres in size to park one commercial vehicle on the lot. This section also allows off-street parking of vehicles used in connection with or in relation to a principal use (the dwelling) as a matter of right. Moreover, as Mr. LaRose explained, the use of the dwelling as an office for A Plus Building is permitted under Section 128.C.1.1(8) as a Home Occupation.

The Appellant has not met his burden of demonstrating that DPZ's decision to close its investigation was that DPZ's action to close its investigation of Zoning Complaint CE-08-153 was unreasonable or unlawful. The photographic evidence introduced as Appellant's Exhibit 3 depicts multiple, commercially tagged vehicles and trailers on the Property, but the presence of such vehicles does not ipso facto make them commercial vehicles within the meaning of the Zoning Regulations. Under Section 103.A.25, a vehicle is "commercial" if it is both a motor vehicle or trailer licensed by the State, and used for transporting goods or equipment *in the furtherance of any commercial enterprise* (emphasis added.). Only one such vehicle in evidence

meets this test, the vehicle owned by A Plus construction.

As to the photographs relating to materials and equipment in the Open Space Lot, the Appellant presented no evidence, such as a plat or map, that these items were actually located in the Lot. I also note the addition under construction on the residence, which could account, in part, for the presence of the equipment and vehicles depicted on the Property.

However, the Appellant has sufficiently demonstrated that DPZ's action to close CE-08-153 was arbitrary and capricious with respect his complaints concerning the alleged illegal height of the accessory building and the illegal use of the Open Space Lot for equipment storage. The zoning inspector was remiss in not investigating these claims, choosing instead, in his own words, to concentrate on the alleged illegal business operation.

I am dismissing the Appellant's complaint about the property owner being in violation of the covenants, because I am not authorized to interpret and enforce private contracts, including covenants. I am also dismissing the Appellant's complaint that DPZ acted unreasonably or unlawfully for not investigating the property owner's alleged failure to obtain a grading permit for the driveway. The Appellant's complaint apparently did not include this alleged violation.

Lastly, while DPZ may have been inattentive in not responding to his requests in a timely manner, neither this nor the agency's decision to continue or re-open its investigation constitute zoning violations for which relief can be granted.

ORDER

For the foregoing reasons, it is this 15th Day of May 2009, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the petition of appeal of Ralph Ballman in BA Case No. 658-D, with respect to his appeal concerning the Department of Planning and Zoning's conclusion to close its investigation of his zoning complaint concerning the alleged illegal use of the subject property to facilitate the operation of a construction company is **DENIED**;

That the petition of appeal of Ralph Ballman in BA Case No. 658-D, with respect to his appeal concerning any covenants and his argument at the hearing that the property owner failed to obtain a grading permit is **DISMISSED**;

That the petition of appeal of Ralph Ballman in BA Case No. 658-D, with respect to his appeal concerning the Department of Planning and Zoning's decision to close its investigation of his zoning complaint without investigating his complaints about the height of the accessory building and the illegal use of the Open Space Lot is hereby **REMANDED** to the Department of Planning and Zoning for appropriate action, or referral to the appropriate agency, consistent with this Decision and Order.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER

MICHELE L. LEFAIVRE

Michele L. LeFaivre

Date Mailed: 5/19/09

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.